

STATE OF OREGON
COUNTY OF HOOD RIVER
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

STEVEN & MARCY SHORT
PO BOX 387
PARKDALE, OR 97041

541-352-7576

confirms the right to use the waters of an UNNAMED SPRING, tributary of the EAST FORK HOOD RIVER for development of 2 THEORETICAL HORSEPOWER (THP).

This time-limited certificate is issued under application HE 583. The date of priority is DECEMBER 21, 2007. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.09 CUBIC FEET PER SECOND(cfs) measured at the point of diversion from the source.

The point of diversion is located:

SE 1/4 NE 1/4,
SECTION 4,
TOWNSHIP 1 SOUTH, RANGE 10 EAST, W.M.

The authorized place of use is:

SE 1/4 NW 1/4
SECTION 4
TOWNSHIP 1 SOUTH, RANGE 10 EAST, W.M.

Appeal Rights

This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

This statement of judicial review rights does not create a right to judicial review of this order, if judicial review is otherwise precluded by law.

PROJECT DESCRIPTION

The project proposes to divert up to 0.09 cfs of water from an unnamed spring that flows consistently between 20-30 gallons per minute into a 1,500 gallon poly tank (cistern) as it is available. In addition to the 4" diameter PVC inflow pipe, the cistern has two 2" diameter PVC outflow pipes; one to supply water for domestic use – certificate 72447 and the other carries the cisterns overflow water approximately 2,000 feet to the upper pond to store for summer irrigation. There is a 10% gradient (I.e. 200' of elevation fall over 2,000 feet of pipe) between the point of diversion and the proposed place of use. The applicants intend to generate electricity using a Harris permanent magnet Pelton turbine. Harris systems are especially well suited to produce useable power from the type of water source proposed for use by the applicants. The project, able to operate 24 hours a day, will produce direct current (DC) electricity which may be stored in batteries to be deliver "on demand" from the batteries as it is needed. The estimated cost of the project is \$5,000.

FINDINGS

The Director finds that the project is well adapted to the development and utilization of the water power involved, that no application for this project or in conflict with this project has been filed by any municipality or utility district, and that the water right holder has paid to the Oregon Water Resources Department (OWRD) all fees required prior to the issuance of this certificate.

The use of water is limited to the amount that the generation facilities can utilize efficiently, and shall not exceed the specifications noted in the water right. The right granted herein is expressly made inferior in right and subsequent in time to any authorized appropriation of water from this source for domestic, municipal, irrigation or any other beneficial consumptive use.

WATER RIGHT CERTIFICATE CONDITIONS

The Owner shall comply with all the statutes and rules applicable to the resources impacted by the Project.

1. The owner shall pay, upon receiving an invoice from OWRD, to OWRD in accordance with the provisions of ORS 543.300(5) on or before the first day of January of each year after issuance of this time-limited certificate, and during the period of this time-limited certificate, an annual fee of \$15.00.
2. The Owner shall construct and build the Project according to the maps, plans and specifications filed with the application within two years of issuance of this time-limited water right. OAR 690-051-0390 (2).

3. The total net vegetation adjacent to project waterways that provides shading to the waterways and/or streambank soil stability shall not be degraded or lessened. The water right holder shall consult with the Oregon Department of Environmental Quality (ODEQ) before undertaking any activity that directly or indirectly results in removal of vegetation adjacent to project waterway(s) that provides shade to the waterway(s) and/or provides stream-bank soil stability. (Waterways include, but are not necessarily limited to: bypass stream reaches, siltation/forebay ponds, open-channel diversions, and aboveground pipes.)
4. Notwithstanding any specific conditions established by this water right, the water right holder must comply with all water quality standards adopted by the Environmental Quality Commission pursuant to state and federal law. ORS 468B.048 and Section 303 of the Clean Water Act.
5. OWRD may alter conditions of the certificate on a clear showing of a significant threat to the public health or safety or the environment that was not identified and addressed during the most recent project authorization proceeding, and that requires modification of the certificate. ORS 543A.145 (5). Such changes could include, but are not limited to, the following:
 - a. New federal listing or a change in status or recovery plan of a threatened or endangered species that may be affected by the project.
 - b. Change in a water quality standard for a water quality parameter that may be affected by the project.
 - c. Development of a Total Maximum Daily Load for a water quality parameter that may be affected by the project.

If OWRD proposes to alter conditions, the order shall be in writing and shall consist of a concise statement of the underlying facts supporting the proposed order. Any appeal of the order shall be according to procedures outlined in ORS Chapter 183.


6. The owner must obtain OWRD review and approval before undertaking any repair, maintenance activity, or any change to the project that might significantly and adversely affect water quality, fish and wildlife or public health and safety, including changes to project operation and flows. Oregon Administrative Rules 690-20-025, ORS 543A. 025.
7. If at any time an unanticipated situation arises in which the owner observes or suspects that fish, wildlife, or their habitat may be harmed by any of the project facilities or as the result of project operation, the operator shall immediately notify and consult with the nearest office of the Oregon Department of Fish and

Wildlife (ODFW); in no case shall such contact occur later than the next business day. The owner shall subsequently restore any damaged fish and wildlife protection features of the project consistent with direction provided by ODFW. ORS Chapter 543A.025.

8. The landowner shall install a watering trough at the spring cistern for wildlife use.
9. All the fish and wildlife mitigation features shall be properly maintained for the duration of the project. ORS 543A.025 (2)(a) and (5)(d).
10. Upon permanent cessation of power generation, the owner shall remove or modify project facilities to meet decommissioning standards adopted by the OWRD.
11. The owner shall allow the Director and authorized agents and employees of the ODEQ and ODFW free and unrestricted access in, through, and across the project in the performance of their official duties, and shall allow free access to all reports, accounts, records, and other data relating to the said project.
12. No substantial change to the project shall be made unless approved by the Director and incorporated into this certificate by appropriate amendment or special order.
13. Failure to comply with any of the provisions of this certificate may result in action including, but not limited to, civil penalties, restrictions on the use or cancellation of the certificate.
14. The land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan. ORS 197.180.
15. Any transfer or sale of a license, rights under a license, or property associated with a project must comply with the requirements of ORS 543.440 regarding prior approval of the OWRD and rights and responsibilities transferred. These laws require that prior to any transfer, the owner shall notify OWRD of the name of the new owner and complete forms provided by the OWRD assigning the hydroelectric project to the new owner. Any successor or assignee shall be subject to all terms and conditions of this certificate. Any mortgage, deed of trust, or other lien is subject and subordinate to the terms and conditions of hydroelectric program law. ORS 543.440.
16. This certificate is issued for the period effective as of the date of issuance through December 31, 2028. On termination of this certificate, such right to the use of water shall revert to an instream water right, unless the project owner applies to OWRD to reauthorize the project.
17. The right to the use of water for power generation is restricted to beneficial use at the place of use described. The use confirmed herein may be made only at time when

sufficient water is available to satisfy all prior rights issued before this use was initiated, including rights for maintaining instream flows.

Issued June 17, 2008


DWIGHT W. FRENCH, Administrator of Water Rights & Adjudications
{For}
Phil C. Ward, Director
Water Resources Department

Recorded in State Record of Water Right Certificates, Number 84252